

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DENNIS BURTON UNDERWOOD,

Plaintiff,

v.

CLARK COUNTY BOARD OF
COMMISSIONERS *et al.*,

Defendants.

Case No. C07-5217RJB

REPORT AND
RECOMMENDATION

**NOTED FOR:
July 27, 2007**

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiff's motion to show cause and for a preliminary injunction (Doc. # 5). The court ordered a response and defendants complied (Doc. # 14). Having reviewed the file the court recommends the motion for injunctive relief be **DENIED**.

FACTS

The plaintiff seeks service addresses for five additional defendants. He names these defendants on page three of his complaint and in his motion (Doc. # 4, page 3 and Doc. # 5, page 1). Three other defendants have already been served and appeared in this action. All defendants are either Clark County employees or Clark County entities. The defendants who have appeared indicate the address they were served at should work as a

1 service address for the remaining five persons plaintiff wishes to serve. Defendants note it is plaintiff's duty to
 2 take the steps needed to perfect service (Doc. # 14). Thus, plaintiff must either properly serve the five
 3 remaining persons or present the court with a motion and copies of the complaint and service documents.

4 DISCUSSION

5 The basic function of injunctive relief is to preserve the status quo ante litem pending a
 6 determination of the action on the merits. Los Angeles Memorial Coliseum Com'n v. National Football
 7 League, 634 F.2d 1197, 1200 (9th Cir. 1980). A party seeking injunctive relief must fulfill one of two
 8 standards, the "traditional" or the "alternative." Cassim v. Bowen, 824 F.2d 791, 795 (9th Cir. 1987).

9 Under the traditional standard, a court may issue preliminary relief if it finds that (1) the moving
 10 party will suffer irreparable injury if the relief is denied; (2) the moving party will probably prevail
 11 on the merits; (3) the balance of potential harm favors the moving party; and (4) the public interest
 12 favors granting relief. . . . Under the alternative standard, the moving party may meet its burden by
 13 demonstrating either (1) a combination of probable success and the possibility of irreparable injury
 14 or (2) that serious questions are raised and the balance of hardships tips sharply in its favor.

15 Id. (citations omitted).

16 Plaintiff's argument meets neither standard. The plaintiff seeks information on how to serve
 17 correctional staff who works at the Jail. He has been informed the address he used for the other defendants
 18 should work. There is no showing of injury and this issue does not touch on the merits of the litigation. The
 19 motion should be **DENIED**. A proposed order accompanies this Report and Recommendation.

20 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
 21 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
 22 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
 23 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
 24 set the matter for consideration on **July 27, 2007**, as noted in the caption.

25 DATED this 3 day of July, 2007.

26 /S/ J. Kelley Arnold
 27 J. Kelley Arnold
 28 United States Magistrate Judge